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DEC 1, 9 2006

## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

JOHN F. CORCORAN, CLERK
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KERRY V. COOK,	)	
	)	Civil Action No. 7:06ev00353
Plaintiff,	)	
v.	)	FINAL ORDER ADOPTING REPORT
	)	AND RECOMMENDATION
CAPT. A. RODRIGUEZ, et al.,	)	
	)	By: Samuel G. Wilson
Defendants.	)	United States District Judge
	)	

Plaintiff, Kerry V. Cook, brings this action pursuant to 42 U.S.C. § 1983, claiming that while incarcerated at the Albemarle Charlottesville Regional Jail, Officer Thomas used excessive force against him. The matter was referred to the United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b), who entered a Report and Recommendation recommending that defendants' motion to dismiss be granted. Objections to the Report and Recommendation have not been filed, and the court, upon review of the record, is of the opinion that the report should be adopted. It is accordingly, **ORDERED** and **ADJUDGED** that defendants' motion to dismiss is **GRANTED**, and this matter is stricken from the active docket of the court.

**ENTER**: This December 19, 2006.

**UNITED STATES DISTRICT JUDGE**